FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 393/2004

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : March 23, 2007.

Heard Shri J.J. Chandurkar for the appellant.

The appellant is the original defendant. A suit was filed by the respondent/plaintiff for permanent injunction seeking to restrain the defendant from interfering with the peaceful possession of the plaintiff over 0.98 acres of land which was purchased by the plaintiff from the defendant on 30/1/1979.

Both the Courts came to a conclusion that the document executed in favour the plaintiff by the defendant on 30/1/1979, was not, in fact, a sale deed, but was an agreement of sale by which the defendant had agreed to sell the suit land to the plaintiff for a consideration of Rs. 3,500/-. It was the case of the plaintiff that the entire consideration was paid by the plaintiff to the defendant at the time of execution of the agreement of sale and the

plaintiff was put in possession of the suit property. Both the Courts held that the suit was not for a declaration of title of the plaintiff or the ownership of the plaintiff over the suit land, but was merely a suit for permanent injunction on the basis of the possession of the plaintiff. Both the Courts recorded a finding that the plaintiff was in possession of the suit property on the date of the institution of the suit.

The findings recorded by both the Courts are based on an appreciation of the material evidence on record and hence cannot be found fault with. Since no substantial question of law arises for consideration in this second appeal, same is dismissed with no order as to costs.

JUDGE

RMP